

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

JANE DOE #5,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

Case No. 1:23-cv-01226-JLT-SAB

ORDER GRANTING EXTENSION OF TIME TO  
FILE DISPOSITIONAL DOCUMENTS,  
DISCHARGING ORDER TO SHOW CAUSE,  
AND DISMISSING ACTION PURSUANT TO  
NOTICE OF VOLUNTARY DISMISSAL

(ECF Nos. 20, 21, 22)

On October 4, 2023, this matter was settled at a settlement conference at least as to some named parties, and dispositional documents were to be filed withing thirty (30) days. (ECF No. 19.) On November 7, 2023, the Court issued an order to show cause as neither dispositional documents, nor a request for extension, was filed by the deadline. (ECF No. 20.)

On November 8, 2023, counsel for Plaintiff filed a response to the order to show cause indicating that: the parties were working on draft settlement agreements after the date of settlement; the final drafts of these agreements were emailed by defense counsel on October 23, 2023; after receipt of the final drafts, Plaintiff's counsel worked diligently to obtain client signatures, immediately sent by way of regular mail a copy of the Settlement Agreement and Release to Plaintiff on October 24, 2023; Plaintiff is in custody at CDCR; Plaintiff did not receive the Settlement Agreement and Release sent by her attorney on October 24, 2023; Plaintiff's

1 counsel was notified on October 30, 2023, that it had not been received and immediately mailed a  
2 second copy; Plaintiff received and signed this copy of the Settlement Agreement and Release on  
3 November 1, 2023, and returned the document by way of regular mail; counsel for Plaintiff  
4 received the signed Settlement Agreement and Release on November 6, 2023, and emailed the  
5 executed settlement agreement to defense counsel on November 7, 2023; and Plaintiff  
6 respectfully requests an additional 30 days to receive a fully executed copy of the settlement  
7 agreement and to file dispositional documents. (ECF No. 21 at 1-2.)

8 While Defendants have not directly provided a response to the order to show cause, in  
9 light of the Plaintiff's filing, and the stipulation of dismissal immediately filed thereafter by  
10 Defendants, discussed next, the Court shall discharge the order to show cause. However, in most  
11 cases, the Court would not discharge an order to show cause until all parties have explained their  
12 positions.

13 On November 9, 2023, a stipulation of dismissal was filed pursuant to Rule 41(a)(1)(A)(ii)  
14 of the Federal Rules of Civil Procedure. (ECF No. 22.) The stipulation is filed by counsel for  
15 Plaintiff, and by counsel for Defendants State of California, CDCR, and M. Pallares. Defendant  
16 Greg Rodriguez is named as a Defendant, however, has not appeared in this action. No  
17 Defendant has filed an answer or motion for summary judgment. The filing provides that the  
18 stipulating parties agree to dismissal of this action and all claims and causes of action with  
19 prejudice, and with the parties to bear their own costs and attorneys' fees.

20 Under Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, 'a plaintiff has an  
21 absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a  
22 motion for summary judgment.' ” Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193  
23 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir.  
24 1997)). Additionally, Federal Rule of Civil Procedure 41(a)(1)(A)(ii) provides that a “plaintiff  
25 may dismiss an action without a court order by filing a stipulation of dismissal signed by all  
26 parties who have appeared.” Fed. R. Civ. P. 41(a)(1)(A)(ii).

27 In light of the filing, this action has been terminated, Fed. R. Civ. P. 41(a)(1)(A)(i)-(ii);  
28 Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997), and has been dismissed with

prejudice and without an award of costs or attorneys' fees.

Accordingly, IT IS HEREBY ORDERED that:

1. The order to show cause issued on November 7, 2023, (ECF No. 20), is DISCHARGED;
2. Plaintiff's request for an extension of time to file dispositional documents is GRANTED; and
3. The Clerk of the Court is DIRECTED to CLOSE the file in this case and adjust the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

IT IS SO ORDERED.

Dated: November 13, 2023

  
UNITED STATES MAGISTRATE JUDGE